

ABSTRAK

Indonesia belum mempunyai Undang-undang keamanan nasional yang mensinkronkan antara keamanan negara, masyarakat dan individu dalam sebuah sistem hukum keamanan nasional di wilayah perbatasan. Kondisi sistem hukum keamanan saat ini masih menggunakan Undang-undang sektoral yakni UU no 2 tahun 2002 tentang Polri, UU no 3 tahun 2002 tentang pertahanan negara, UU no 34 tahun 2004 tentang TNI, UU no 43 tahun 2008 tentang wilayah negara, UU no 23 tahun 2014 tentang pmda dan peraturan-peraturan turunannya. Kondisi kelembagaan masih bersifat koordinasi, belum mempunyai tenaga pelaksana, dan mempunyai kelemahan kemampuan sumber daya manusia dan teknologi. Kondisi kultur masyarakat perbatasan belum sejahtera, krisis kepercayaan dan ketertinggalan menjadi penyebab kegiatan illegal dan tidak patuh hukum.

Terdapat kelemahan konstitusi UUD NRI 1945 dan belum sinkronnya UU sektoral, pembagian tugas kelembagaan yang tidak seimbang dan belum terikatnya masyarakat dengan nilai-nilai pancasila serta adanya pengaruh global berdampak terhadap sistem hukum keamanan saat ini belum mampu mengatasi ancaman kedaulatan, kesejahteraan dan kehidupan nasional.

Penelitian ini bertujuan: Pertama, untuk menganalisis dan mengungkap sistem hukum keamanan saat ini belum mampu menanggulangi berbagai ancaman di perbatasan Indonesia. Kedua, menganalisis dan mengungkap sistem hukum keamanan saat ini menurut UUD NRI 1945 dan peraturan perundang-undangan. Ketiga, untuk menganalisis dan mengkonstruksi sistem hukum keamanan nasional secara ideal berdasarkan substansi, struktur dan kultur. Kemudian penelitian ini, berakhir pada pembentukan naskah akademik sebagai pedoman pembentukan Undang-Undang dan Badan Keamanan Nasional serta pemilihan pimpinan yang berkarakter kebangsaan dan peningkatan kearifan lokal. Proses penelitian ini memilih mempergunakan tradisi kualitatif, paradigma post positivism dan pendekatan socio-legal. Arus model analisis dilakukan secara interaktif. Validasi datanya dilakukan dengan triangulasi sumber dan diskusi dengan teman sejawat.

Studi ini menyimpulkan: (1) Sistem hukum keamanan nasional saat ini belum mampu menanggulangi ancaman kedaulatan, kesejahteraan dan kehidupan nasional dikarenakan: Pertama, Terdapat kelemahan UUD NRI 1945, Belum sinkronnya UU Sektoral turunannya, Kedua, Belum ada Badan Keamanan Nasional dan Perbatasan serta belum ada harmonisasi dan keseimbangan pembagian tugas TNI, Polri dan Intelijen. Ketiga, Keterlibatan kearifan lokal terbatas, krisis kepercayaan terhadap pimpinan dan belum seimbang fungsi negara dan pemerintah.

Adapun konstruksi ideal sistem hukum keamanan nasional di wilayah perbatasan Indonesia dengan cara membangun: (i) Amandemen terhadap substansi UUD NRI 1945, mensinkronkan UU Sektoral serta harmonisasi aktor-aktor keamanan, kesejahteraan dan keselamatan. Kedua, Membentuk Badan Keamanan Nasional dan Perbatasan serta membagi tugas keamanan TNI, Polri dan Intelijen. Ketiga, Mengaktifkan peran kearifan lokal, memilih pemimpin yang berkarakter kebangsaan, dan mengatur keseimbangan fungsi negara dan pemerintah sesuai pancasila dan UUD NRI 1945.

Kunci Kata: Sistem Hukum, Keamanan Nasional dan Perbatasan.

ABSTRACT

Indonesia does not have a national security legislation that synchronizes between the security of the state, society and the individual in the legal system of national security in the border region. Conditions legal system security today still use the Law of sectors namely Law Number 2 of 2002 on the Police, Law Number 3 of 2002 on state defense, Act Number 34 of 2004 on the Indonesian Armed forces, Law Number 43 of 2008 on the territory of the Law Number 23 of 2014 on local governments and derivatives regulations. Institutional conditions are still coordination, does not have executive power, and have the weakness of human resource capacity and technology. Border culture conditions yet prosperous society, a crisis of confidence and dropping to the cause of illegal activities and do not obey the law.

There is a weakness in the constitution of 1945 and yet synchronization of sector laws, the institutional division of tasks is not balanced and not dependent society with the values of Pancasila as well as their impact on the global effect of the current security legal system has not been able to overcome the threat of sovereignty, prosperity and national life.

This study aims: First, to analyze and reveal the current security legal system has not been able to cope with various threats on the border of Indonesia. Second, analyze and reveal the current system security law according to the constitution of 1945 and legislation. Third, to analyze and construct the system of national security laws are ideally based on the substance, structure and culture. Later this research, ended in the establishment of academic texts as a guide the formation of the Act and the National Security Agency and the selection of the leadership of national character and increase local knowledge. The process of this study chose to use a qualitative tradition, the paradigm of post-positivism and socio-legal approach. Flow analysis model performed interactively. Validation of data is done by triangulation and discussion with colleagues.

The study concluded that: (1) The legal system of national security is not currently able to cope with the threat of sovereignty, prosperity and national life is because: First, are the weakness in the Constitution of 1945, yet synchronous Law Sectors derivatives, Second, yet there is the National Security Agency and the Border and yet there is harmony and balance actors of the Indonesian Armed forces, Police and Intelligence. Third, the limited involvement of local wisdom, the crisis of confidence in the leadership and yet balanced functions of state and government.

The ideal construction legal system of national security in the border region of Indonesia by establishing: First, amendment to the substance of the Constitution of 1945, synchronize the Law Sectors as well as the harmonization of security, welfare and safety actors. Second, establish the National Security Agency and the Border and share security duties on the Indonesian Armed Forces, Police and Intelligence. Third, To Activate the role of local wisdom, chose leaders of character nationalities, and regulate the balance of state and government functions in accordance with Pancasila and in the Constitution of 1945.

Key words: Legal System, National Security and Border.